REMARKS

In view of the foregoing amendments and following remarks, Applicant respectfully requests favorable reconsideration of this application.

Applicant respectfully thanks the Office for withdrawing the previous claim rejections, including all prior art rejections based on the O'Brien reference. Nevertheless, the Office has asserted new rejections, which shall be addressed below in the same order in which they were presented in the Office Action.

The Office objected to claims 10-18 due to inconsistencies between the preambles of the dependent claims and the claims from which they depend. Applicant has herein amended the claims in order to address these issues. In fact, in reviewing the claims in view of this Office Action, Applicant noted similar inconsistencies in connection with claims 2-8 and has also amended those claims accordingly.

The Office rejected claims 1 and 9 under 35 U.S.C. 103(a) as being unpatentable over the book "Intermediate Accounting" (hereinafter "IA") in view of Owens (U.S. Patent No. 6,047,267). Specifically, the Office asserted that AI teaches all of the limitations of claims 1 and 9 except that the process is contained on a computer readable product embodied on computer readable media. Accordingly, the Office cited Owens for the sole purpose of teaching a computer readable product embodied on computer readable media.

Applicant respectfully traverses.

The present invention is a computer program or the like for determining whether to classify assets as capital assets or expensed assets. In accordance with the invention, assets are classified as capital or expensed assets by determining the

average cost of all models of the given machine type to which the particular asset belongs and comparing that average cost to a predetermined minimum value. All assets of a machine type having an average value that is greater than or equal to the minimum capitalization value are classified as capital assets, while all assets of a machine type having an average value below the minimum capitalization value are classified as expensed assets.

The Office asserts that all of the recitations of the independent claims 1 and 9 are found in IA (with the qualification that IA does not disclose a computer program like for performing the recited instructions/steps/procedures).

Applicant respectfully traverses. In summary, the process/software recited in both claims 1 and 9 includes, at least, determining an average value of models of a particular machine type; selecting a minimum capitalization value; determining the machine type of the particular asset in question; determining if the aforementioned average value is greater than or equal to the aforementioned minimum capitalization value; and, if that average value is greater than or equal to that minimum capitalization value, classifying said asset as a capital asset, and, if that average value is less than that minimum capitalization value, classifying the asset as an expensed asset.

Contrary to the Office's assertions, IA, not only does not teach these features, but essentially does not teach anything pertaining to the function of the claimed invention, namely, determining whether to classify an asset as either a capital asset or an expensed assets. Certainly, there is no disclosure in IA of any of (1) determining the average value of models of a machine type, (2) comparing that average value to a

minimum capitalization value, or (3) classifying the asset as a capital assets or an expensed asset based on that comparison.

There seems to be a fundamental misunderstanding as to what IA and/or the present invention pertains. The present invention pertains to determining whether an asset is to be treated as a capital asset or an expensed asset. IA, however, is entitled "CHAPTER 10: Acquisition And Disposition Of Property, Plant, And Equipment" and, exactly as this title suggests, IA pertains to accounting principles to be applied to capital assets. Also exactly as this title suggests, this chapter already starts from the presumption that an asset is a capital asset. This chapter contains absolutely no disclosure concerning determining whether an asset is or is not a capital asset, which is the very topic of the claims in question. The chapter discusses in detail whether certain types of the expenses associated with these capital assets can be treated as capital expenses or expensed expenses. However, the actual assets are assumed to be capital assets.

For instance, the Office asserts that the recitation of assigning an average value of models of the machine type is disclosed on page 509 of IA. However, no such thing appears on page 509. Page 509 is entitled "Valuation" and deals entirely with determining the value of a capital asset. There is absolutely nothing suggesting averaging the prices of a plurality of assets, let alone averaging the cost of a plurality of assets of a given machine type.

Furthermore, the Office asserts that pages 509 and 514 disclose correlating the machine type of the acquired asset to the average value assigned to the machines type. However, as just noted, page 509 does not mention any average value. Furthermore,

there is no discussion of machine types or any similar concept. Accordingly, it cannot possibly have anything to do with correlating machine type of the acquired asset to the average value. Page of 514 similarly is inapposite. Page 514 deals with two topics, namely, computing the loss on the disposal of the use machine and how to treat the exchange of similar non-monetary assets for accounting purposes, e.g., exchanging one piece of real property for another piece of real property. Neither of these topics has anything even remotely to do with the present invention as claimed in claims 1 and 9.

As stated on the first page of IA, page 500, which is entitled "Preview of Chapter 10":

> The purpose of this chapter is to discuss (1) the proper accounting for costs related to property, plant, and equipment, and (2) the accounting methods used to record the retirement or disposal of these costs.

Thus, by the very description introducing the chapter itself, this reference assumes that the assets in question all are capital assets, i.e., property, plant, and equipment and, therefore, contains no discussion whatsoever of determining whether an asset is a capital asset or an expensed asset.

Thus, referring to claim 1, at a minimum, contrary to the Office's assertions, IA does not disclose at least "(1) assigning with respect to each of the plurality of machine types and average value of models of said machine type", "(4) determining a machine type of said acquired asset", "(5) correlating said machine type of said acquired asset to sit average value assigned to said machine type", "(6) if said average value for said machine type of said acquired asset is greater than or equal to said minimum capitalization value, classifying said asset as a capital asset and, if said average value

for said machine type of said acquired asset is last man said minimum capitalization value, classifying said asset as an expensed asset".

Claim 9 contains similar limitations.

The Office's secondary reference, Owens, has been cited merely for the purpose of teaching a computer program to allegedly establish that the alleged accounting principles disclosed in IA could be implemented by software. It does not teach, nor has the Office asserted that it teaches, any of the aforementioned features lacking from IA.

Accordingly, claims 1 and 9 patentably distinguish over the asserted prior art.

The Office further rejected all of the remaining claims, claims 2-8 and 10-18, under 35 U.S.C. 103(a) as unpatentable over IA in view of Owens as applied to claims 1 and 9 and further in view of O'Brien.

All of these claims depend from either claim 1 or claim 9 and, therefore, distinguish over the prior art at least for all of the same reasons discussed above in connection with claims 1and 9. The addition of O'Brien does not solve any of the shortcomings of the primary and secondary references.

O'Brien discloses a system for benchmarking asset characteristics. Paragraphs 158-168 referred to by the Office describe a system for (1) tracking and managing a plurality of assets that can also utilize the resulting information for benchmarking purposes, (2) using asset information from multiple entities for benchmarking purposes, and (3) performing benchmarking. A review of O'Brien reveals nothing even remotely resembling the present invention. IT does not teach all of the claimed elements lacking from IA and Owens discussed above (nor has the Office asserted that it does).

Furthermore, O'Brien does not teach much of what the Office has asserted that it teaches. Merely as a few examples, the Office asserted that O'Brien teaches calculating the average value of the models at paragraphs 37, 160-162, and 166-167; instructions for weighing the value of each model (paragraphs 16, 137 [sic, 37?], 75-77, 158-162, and 163-167); weighting the value of each model as a function of predicted purchasing trends of models (same paragraphs as preceding item); that the value of the models are derived from the manufacturer's suggested retail price of said model (same paragraphs as preceding item); that the value of the models are derived from the manufacturer's base manufacturing cost (same paragraphs as preceding item); determining the values of a predetermined date (same paragraphs as preceding item); and the date of commercial release (same paragraphs as preceding item).

However, these sections of O'Brien do not disclose these features. For instance, with respect to calculating the average value of the models, Applicant has reviewed the cited paragraphs and found nothing or relevance. At best, paragraph 162 mentions that numerical values can be averaged in accordance with the benchmark heuristic. However, this does not even remotely suggest calculating the average value of models of a particular machine type. The rest of the paragraphs asserted as pertaining to this feature are even less relevant.

Furthermore, the Office asserted that O'Brien teaches the feature of weighing the models of a certain machine type equally in order to determine the average (as claimed in claims 3 and 13) as well as the alternate embodiment of weighing them based on predicted purchasing trends (as claimed in claims 4 and 14). Applicant has reviewed the cited paragraphs of O'Brien and has found nothing remotely resembling these

features. This should not be surprising since O'Brien does not teach determining an average in the first instance. In fact, it is difficult to even speculate as to what language in these paragraphs caused the Office to contemplate that they teach these features. For instance, paragraph 16 mentions "calculating the average cost per hour relating to a particular asset". However this has nothing to do with what is claimed in claims 3, 4, 13, and 14.

Furthermore, the Office asserted that O'Brien teaches that the value of the models are derived from the manufacturer's suggested retail price of said model; the value of the models are derived from the manufacturer's base manufacturing cost; determining the values of a predetermined date; and the date of commercial release. However, no claims in the present application recite such features. Applicant will assume that the Office is asserting that O'Brien teaches using (1) the manufacturer's suggested retail price of said model to calculate the aforementioned average value and/or (as claimed in claims 5 and 15), (2) the manufacturer's base manufacturing cost to calculate the aforementioned average value (as claimed in claims 6 and 16), and/or (3) some value as of the date of commercial release to calculate the aforementioned average (as claimed in claims 8 and 18) since these claim recitations contain similar words to those mentioned in the rejections and because, otherwise, such teaching would be irrelevant to any claim limitations.

Using such assumptions, once again, Applicant has reviewed all of the cited paragraphs of O'Brien and can find nothing suggesting calculating an average of models of a given machine type, let alone calculating that average based on such criteria.

Accordingly, at least dependent claims 3-6, 8, 13-16, and 18 even further distinguish over the asserted prior art for the reasons discussed above.

In short, with respect to both the IA reference and the O'Brien reference, the Office is attempting to fit a square peg in a round hole. Both of these references are inapposite to the present invention and have essentially nothing to do with determining whether to classify an asset as a capital asset or an expensed asset. Therefore, no combination thereof could possibly suggest a solution to that problem.

In view of the foregoing amendments and remarks, this application is now in condition for allowance. Applicant respectfully requests the Office to issue a Notice of Allowance at the earliest possible date. The Office is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Respectfully submitted,

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